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December 17, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

Mr. Anthony Dale
Federal Communications Commission
445 Twelfth Street, S.W.
Room 6-C43
Washington, D.C. 20554

**Re: Application by Bell Atlantic-New York for Authorization to
Provide In-Region InterLATA Services in New York
CC Docket 99-295**

Written *Ex Parte* Presentation by e.spire Communications, Inc.

Dear Mr. Dale:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, e.spire Communications, Inc. ("e.spire"), by its attorneys, submits this written *ex parte* in response to claims made by Bell Atlantic-New York ("BA-NY") in an *ex parte* presentation filed on December 3, 1999. e.spire would like to correct the record with respect to a few key points relating to the failure of BA-NY to deliver interconnection trunks on a timely basis. Where BA-NY cannot dispute the facts stated by e.spire, BA-NY has attempted to distract the Commission's attention from the issue in dispute.

First, with respect to the turn-up of e.spire's initial trunk groups in July 1999, BA-NY states: "Bell Atlantic completed installation of 3800 trunks on August 10, 1999, which is the number of trunks e.spire said it needed to initiate its network." BA-NY ignores the key fact that e.spire has previously detailed—that BA-NY had previously committed to deliver interconnection trunking to meet e.spire's initial forecast on July 2, 1999. Accordingly, BA-NY fails to note that BA-NY's trunk delivery—which was actually completed on August 17, 1999—was delinquent by six weeks, and seriously delayed e.spire's entry into the New York market.

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Second, BA-NY, in stating that it delivered "the number of trunks e.spire said it needed to initiate its network," misstates that facts. As previously explained by e.spire, due to BA-NY's inability to meet e.spire's initial May requirements, BA-NY's August trunk delivery consisted of substantially fewer trunks than e.spire's initial requirement. While BA-NY delivered *some* trunk groups that allowed e.spire to turn up its switch, it was substantially less than e.spire required.

Third, BA-NY claims that it is ready to install 1200 trunks "as soon as e.spire is ready to accept them." Technically, e.spire, in the normal course of trunk delivery, has not provided BA-NY a Firm Order Confirmation on these trunks, but will be providing one shortly, and will proceed to accept these trunks in the normal course. Yet even with the delivery of these trunks, BA-NY will still not be on schedule to meet e.spire's long-term trunking requirements.

Fourth, BA-NY states that "e.spire only needs 214 trunks to carry the volume of traffic that is now handled by e.spire's switch." Again, rather than trying to meet the needs of e.spire, its customer, BA-NY continues to attempt to dictate to e.spire that its interconnection needs are actually limited to only the number of trunks that BA-NY is capable of turning up. Not only has BA-NY understated the amount of usage on e.spire's switch, but BA-NY fails to appreciate the fact that e.spire is in the initial process of turning up extremely high volumes of traffic in a new market—of the largest markets in the country—New York City. e.spire has already sold sufficient traffic to fill up the trunk groups in question and, as e.spire completes its initial customer turn-ups, fully anticipates filling up the trunk groups as forecasted.

e.spire's consistent experience with Bell Atlantic in Maryland, and with ILECs across the country, has been that ILECs have underdelivered on trunking, causing blockage for e.spire customers. In no market – and e.spire has 28 operational switches across the country – has e.spire suffered from too much trunking. As the arbiter of many interconnection disputes, the Commission is no doubt aware that CLECs such as e.spire are continually plagued by a lack of trunking.

In sum, e.spire believes that BA-NY has not met the first checklist point with respect to interconnection trunking. Moreover, if the Commission concludes that BA-NY's performance complies with section 271, it must at the same time adopt strict performance penalties to prevent BA-NY from delaying CLEC entry by underdelivering on interconnection trunking.

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In accordance with Section 1.1206(b)(1) of the Commission's Rules, an original and one copy of this written *ex parte* presentation is being filed with the Commission Secretary today.

Respectfully submitted,

A handwritten signature in cursive script, reading "Ross A. Buntrock".

Ross A. Buntrock

cc: Dee May, Bell Atlantic (by fax 202.336.7922)
Magalie Salas (2 copies)